



CrI.O.P.No.8785 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.8785 of 2024
& CrI.M.P.No.6315 of 2024

M.Vengatesh

... Petitioner/Accused

/versus/

1. The Inspector of Police,
All Women Police Station, Rasipuram,
Rasipuram, Namakkal District. ... Respondent-1/Complainant
2. Rural Development Officer (Woman),
Namagiripettai Block Development Office,
Rasipuram Taluk, Namakkal District.
3. V.Elamathi. ... Respondent-2/defacto complainant

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records relating to the proceedings in Spl.C.C.No.24 of 2022 registered for the offence punishable under Section 9 of Prohibition of Child Marriage Act, 2006 read with Section 5(i), 5(j)(ii) and Section 6 of POCSO Act, 2012 on the file of the District Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court) Namakkal and quash the proceedings against the petitioners.



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For Petitioner : Mr.K.A.Mariappan
For R1 & R2 : Mr.S.Udaya Kumar,
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition is filed to quash the Spl.C.C.No.24 of 2022 on the file of District Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court) Namakkal.

2. The petitioner herein is the sole accused facing trial for the offences under Section 9 of Prohibition of Child Marriage Act, 2006 read with Section 5(i), 5(j)(ii) and Section 6 of POCSO Act, 2012.

3. The petitioner is the maternal uncle of the victim girl. When the victim girl went to the hospital for delivery, the Doctor found that she was below 18 years and therefore informed the matter to Child Helpline. The Social Welfare Officer after verifying the age of the victim girl, lodged a complaint against this petitioner for offence under Child Marriage Act and POCSO Act.

4. On completion of investigation final report has been filed and



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same has been taken cognizance by the trial Court. Now, the matter is posted for recording of evidence. At this juncture, the petitioner herein has filed an application under Section 482 of Cr.P.C., stating that he and the victim girl are related to each other. They fell in love and got married. When she was at advance stage of pregnancy got admitted in the hospital and since the Doctor who attended her found that she was below 17 years, the criminal law was set into motion after receiving the complaint from the Social Welfare Officer.

5. The Learned Counsel appearing for the petitioner would submit that the presumption of the prosecution is that the victim girl is minor. As per the birth certificate of the victim girl her date of birth is 26.08.2004. A female child was born to her on 28.10.2021. The F.I.R was registered after 40 days on 07.12.2021 not at the behest of the victim or her relative but by the Social Welfare Officer stating that they both after marriage, living happily as husband and wife with children. No grievance of any sexual harassment or criminality in the conduct of the petitioner which needs prosecution. Hence, pray for quash of the criminal complaint.

6. This Court directs the Government Advocate (Crl.Side) for the



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respondent police to verify whether the victim girl and the petitioner herein were really married and living as husband and wife. On verification, the Learned Government Advocate (Crl.Side) states that the marriage between the petitioner/Venkatesan and victim girl was solemnized as per self respect marriage procedure and marriage been duly certified and same been registered at Sub-Registrar Office, Coimbatore. A child born to them on 28.01.2021. Presently the petitioner along with his wife and child living at Karkoodalpatti, Rasipuram.

7. This Court frequently confront with the cases of this nature where the marriage by an adult with a minor girl who is short of few months to attain majority are tried for offence under POCSO Act even though, they live happily together and procure child. Any prosecution of her husband in this case will only cause cruelty to the girl whom law describes as victim. Therefore, in exercise of power under Section 482 of Cr.P.C., to meet the ends of justice, the criminal prosecution against the petitioner is quashed.

8. With the above observation, this ***Criminal Original Petition is***



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Allowed. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No
Neutral Citation : Yes/No
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Copy to:-

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Rasipuram, Namakkal District.
3. The Rural Development Officer (Woman),
Namagiripettai Block Development Office,
Rasipuram Taluk, Namakkal District.
4. The Public Prosecutor, High Court, Madras.

DR.G.JAYACHANDRAN,J.



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